

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.692 OF 2003

The State of Maharashtra)..Appellant

Versus

Abdul Kalam @ Chhote Naim Shaikh
and Others.)..Respondents

Mr.A.S.Gadkari APP for the State.

Coram : B.H.Marlapalle &
R.S.Mohite, JJ

Date : 28.02.2007.

PC

1. Heard Mr.Gadkari the learned APP.

2. This is an appeal filed by the State for enhancement of sentence awarded by the learned Adhoc Additional Sessions Judge at Thane for the offences under Sections 342 & 354 of IPC. The accused were sentenced to under-go imprisonment for the period equivalent to the one undergone by each of them as under trials and on each count. The said order is very clear that accused no.1 was in jail for 8 months and accused no.2 was in jail for about two & half months during the trial of Sessions Case No.404/2002 from which this appeal arises. It is also pertinent to note that the accused were put on trial for the offences punishable under Sections 366 & 376 (f) read with section 34 of IPC and they came

to be acquitted on both counts and this acquittal has been challenged by the State in Criminal Appeal No.573/2005.

3. As the appeal by the State against the acquittal has already been admitted by this Court, the conviction and sentence for the offences punishable under Sections 366 & 376 (f) read with section 34 of IPC or under any one of them could be subject to the final outcome in Criminal Appeal No.573/2005 and therefore, we do not see any reason to entertain this appeal for enhancement of the sentence awarded for the offences punishable under Sections 342 and 354 of IPC, as in our opinion the sentence awarded meets the ends of justice and does not require to be reconsidered for enhancement.

4. Hence, the appeal is dismissed in limine.

(R.S.Mohite, J)

(B.H.Marlapalle, J)